

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROVER PIPELINE LLC,)
Plaintiff,) Civil Action No. 19-701
v.) Magistrate Judge Maureen P. Kelly
ROVER TRACT NO. PA-WA-HL-023.130)
COMPRISED OF TEMPORARY)
EASEMENT(S) TOTALING 1.63 ACRES,)
MORE OR LESS, OVER A PARCEL OF)
LAND IN HANOVER TOWNSHIP,)
WASHINGTON COUNTY,)
PENNSYLVANIA, TOTALING 20 ACRES,)
MO, LARA CICCOLELLA, and ANY)
UNKNOWN OWNERS,)
Defendants.)

MEMORANDUM ORDER

On June 14, 2019, Plaintiff Rover Pipeline, LLC (“Plaintiff”) filed a “Verified Complaint for Condemnation of Temporary Easements” against all Defendants. ECF No. 1. Only July 26, 2019, the Court issued an Order of Court expressly directing Plaintiff to personally serve Defendant Lara Ciccolella in accordance with Federal Rules of Civil Procedure 71.1(d)(3) and 4(e) at her address in Charlotte, North Carolina, and any other known residential addresses. ECF No. 17. If such attempts were unsuccessful, Plaintiff was directed to provide the Court with a list of all dates and locations upon which service was attempted. Id. Over 90 days have passed and Plaintiff has still not effectuated service.

Federal Rule of Civil Procedure 4(m) provides, “If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a

specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

In light of Plaintiff’s failure to effectuate service, the Court finds that dismissal of this action is warranted.

AND NOW, this 28th day of October, 2019, IT IS HEREBY ORDERED that this action will be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for failure of the Plaintiff to make service on Defendant Lara Ciccolella within 90 days of the Order of Court dated July 26, 2019. ECF No. 17.

IT IS FURTHER ORDERED, that Plaintiff’s Motion for Partial Summary Judgment and Immediate Possession, ECF No. 2, and Motion to Expedite Hearing on Partial Summary Judgment and Motion for Immediate Access and Possession of Temporary Easements to be Condemned, ECF No. 6, are denied without prejudice as moot.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:



MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: All counsel of record via CM/ECF